

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

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|--|---|---------------------------------|
| DR Distributors, LLC, |) | |
| |) | |
| Plaintiff/counter-defendant, |) | |
| v. |) | Case no. 3:12-cv-50324 |
| |) | |
| 21 Century Smoking, Inc. and Brent Duke, |) | Judge Iain D. Johnston |
| |) | |
| Defendants/counter-plaintiff, |) | |
| v. |) | Magistrate Judge Margarettte J. |
| |) | Schneider |
| |) | |
| DR Distributors, LLC, CB Distributors, Inc., |) | |
| and Carlos Bengoa, |) | |
| |) | |
| Counterclaim defendants |) | |

**DEFENDANTS', 21 CENTURY SMOKING, INC'S AND BRENT DUKE'S
DOCKETING STATEMENT OF APPELLATE JURISDICTION**

Pursuant to the Seventh Circuit's Rules 3(c)(1) and 28(a), defendants through their attorney, Kevin B. Salam file this Docketing Statement addressing appellate jurisdiction.

Cir. Rule 28(a)(1): District Court Jurisdiction: The case before the District Court involves Plaintiff's complaint (ECF 29) and Defendants' counter claims (ECF 37, 42) asserting violations of the Trademark Act of 1946, as amended, 15 U.S.C. §§ 1051-1127, and common and statutory laws of the State of Illinois. The District Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1332, 28 U.S.C. § 1338 and 15 U.S.C. § 1221, as well as the principles of supplemental and pendant jurisdiction pursuant to 28 U.S.C. § 1337.

Cir. Rule 28(a)(2): Appellate Jurisdiction: Appellate jurisdiction is conferred by 28 U.S.C. 1291 based on the June 5, 2024 entry of a final order (ECF 626) purporting to resolve all issues between all the parties before the District Court and according to the order and court docket, terminating the case. On June 17, 2024, the District Court entered a judgment (ECF 627) based on the final order of June 5, 2024. As of the July 1, 2024 contemporaneous filing of the Notice of Appeal, no motion has been filed that would toll the time to appeal.

As explained below, Defendants respectfully suggest that it is not clear whether the District Court has entered a final order that confers appellate jurisdiction upon this Appeals Court. Out of an abundance of caution to avoid any possible waiver of their appeal rights, defendants have filed contemporaneously herewith, a Notice of Appeal

The District Court's June 5, 2024 order (ECF 626) entered a default judgment in favor of plaintiff and against defendants on all of plaintiff's claims then pending in the First Amended Complaint (ECF 29). In addition, the court dismissed all of defendants counterclaims. The court on June 17, 2024 entered judgment (ECF 627) in favor of plaintiff and against defendants in the amount of \$1,263,372, which was the amount of a monetary discovery sanction previously entered by the court on October 6, 2022 (ECF 541).

However, plaintiffs' various claims in its First Amended Complaint (ECF 29) upon which judgment was granted seek injunctive relief, statutory damages, including attorney fees and common law damages. The District Court has not

addressed any of plaintiff's requests for relief. Further, the District Court also entered an order finding that former defense counsel Thomas Leavens was liable for \$1,010, 698.00 in sanctions for violation of discovery rules and that former defense counsel, Peter Stamatis was liable for \$252,674 in sanctions for violation of discovery rules. (ECF 541). However, no judgments have been entered thereon. Thus, it does not appear that all matters between the parties before the District Court have been resolved.

Defendants 21 Century Smoking, Inc., and Brent Duke

Date: June 30, 2024

By: /s/ Kevin B. Salam
Attorney for defendants

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By /s/ Kevin B. Salam

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CERTIFICATE OF SERVICE

I, Kevin B. Salam, I hereby certify that on June 30, 2024, I electronically filed the foregoing with the Clerk of the Court for United States District Court for the Northern District of Illinois, Western Division by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

By: /s/Kevin B. Salam
Counsel for Defendants